



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 100217095-2081-04]**

**RTID 0648-XC199**

**Reef Fish Fishery of the Gulf of Mexico; 2022 Recreational Accountability Measure and Closure for Gulf of Mexico Red Grouper**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS implements an accountability measure (AM) for the red grouper recreational sector in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) for the 2022 fishing year through this temporary rule. NMFS has projected that the 2022 recreational annual catch target (ACT) for Gulf red grouper will have been reached by August 30, 2022. Therefore, NMFS closes the recreational sector for Gulf red grouper on August 30, 2022, and it will remain closed through the end of the fishing year on December 31, 2022. This closure is necessary to protect the Gulf red grouper resource.

**DATES:** This temporary rule is effective from 12:01 a.m., local time, on August 30, 2022, until 12:01 a.m., local time, on January 1, 2023.

**FOR FURTHER INFORMATION CONTACT:** Dan Luers, NMFS Southeast Regional Office, telephone: 727-551-5719, email: *daniel.luers@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** NMFS manages the Gulf reef fish fishery, which includes red grouper, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All red grouper weights discussed in this temporary rule are in gutted weight.

Following a recent red grouper stock assessment, NMFS implemented Amendment 53 to the Reef Fish FMP (87 FR 25573, May 2, 2022), which modified the allocation between the commercial and recreational sectors, and the sector catch limits. The new assessment incorporated updated historical recreational landings estimates calibrated to the Marine Recreational Information Program (MRIP) Fishing Effort Survey (FES), the current method for estimating recreational effort. The previous recreational catch limits were based on an assessment that incorporated the historical recreational landings estimates generated using the prior (MRIP) Coastal Household Telephone Survey (CHTS), which produced significantly lower estimates of recreational effort. Under Amendment 53, the recreational annual catch limit (ACL) is

1.73 million lb (0.78 million kg) and the recreational ACT is 1.57 million lb (0.71 kg) (in MRIP FES units). Subsequent to the Amendment 53 final rule, NMFS implemented a final rule for a framework action under the FMP (87 FR 40742, July 8, 2022) which further revised the red grouper recreational ACL to 2.02 million lb (0.92 million kg) and the ACT to 1.84 million lb (0.83 million kg). This rule is effective August 8, 2022.

The Gulf red grouper recreational ACL was exceeded in 2021 by approximately 0.72 million lb (0.33 million kg) or 72 percent of the recreational ACL. As specified in 50 CFR 622.41(e)(2)(ii), in the year following a recreational ACL overage, NMFS is required to maintain the red grouper ACT in that following fishing year at the level of the prior year's ACT, unless the best scientific information available determines that maintaining the prior year's ACT is unnecessary. In addition, NMFS is required to reduce the length of that following year's recreational fishing season to ensure that the recreational ACT is not exceeded in that following year.

Although the regulations refer to maintaining the prior year's ACT, the 2021 ACT is not consistent with catch limits established in Amendment 53 and the 2022 red grouper framework action because it was derived from an assessment that used the outdated MRIP CHTS historical recreational landings estimates and the prior commercial-recreational

allocation. In addition, as explained in the final rule implementing Amendment 53, the 2021 ACT, which is 0.92 million lb (0.42 million kg) in MRIP CHTS units, would be 1.93 million lb (0.88 million kg) in MRIP FES units (87 FR at 25574). This is greater than the current 2022 ACT of 1.84 million lb (0.83 million kg), and implementing a closure based on the greater ACT would increase the likelihood of exceeding the 2022 recreational ACL. Therefore, this closure is based on the projection of when the newly implemented ACT for 2022 will be reached. Based on data from January - April 2022, and on the average harvest rates for the 2020 and 2021 recreational fishing years, NMFS projects that the 2022 recreational ACT for Gulf red grouper will be reached as of August 30, 2022. NMFS used a 2-year average for the projected harvest rates because NMFS determined that it is most representative of current conditions. The catch rate in 2021 was higher than the catch rate in 2020. However, the harvest of red grouper from January through April of 2022 was lower than in 2021, and the price of fuel may be contributing to less boating/fishing activity to date in 2022. Accordingly, this temporary rule closes the recreational sector for Gulf red grouper effective at 12:01 a.m., local time, on August 30, 2022, through the end of the fishing year on December 31, 2022.

During the recreational closure, the bag and possession limits for red grouper in or from the Gulf EEZ are zero. The

prohibition on possession of Gulf red grouper also applies in Gulf state waters for any vessel issued a valid Federal charter vessel/headboat permit for Gulf reef fish.

### **Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 622.41(e) (2) (i), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b) (B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations associated with the closure of the red grouper recreational sector at 50 CFR 622.41(e) (2) (i) have already been subject to notice and public comment, and all that remains is to notify the public of the closure. Prior notice and opportunity for public comment are contrary to the public interest because there is a need to immediately implement this action to protect the red grouper stock. Prior notice and opportunity for public comment would require time and could result in a harvest well in excess of the established ACT and ACL.

For the aforementioned reasons, the Assistant Administrator also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C.

553(d) (3) .

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 5, 2022.

---

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2022-17157 Filed: 8/5/2022 4:15 pm; Publication Date: 8/10/2022]